



September 13, 2001

Mr. David Zimmerman
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2001-4095

Dear Mr. Zimmerman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 152000.

The Office of the Governor (the "Governor") received a request for the following three categories of information:

- 1) All information, records, documents and correspondence to or from the Governor relating to House Bill No. 1862 and Senate Bill No. 11.
- 2) All information, records, documents and other correspondence to or from the Governor relating to the prompt payment of physicians by insurers and health maintenance organizations, generally, as well as any such items relating to the privacy of medical information.
- 3) All information, records, documents and other correspondence to or from the Governor relating to the veto of House Bill No. 1862.

You have submitted to this office for review various bill analyses, e-mail communications, and memoranda concerning House Bill 1862 and Senate Bill 11. You contend that the submitted information is excepted from disclosure under sections 552.106(b) and 552.111

of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.106(b) of the Government Code excepts from disclosure “[a]n internal bill analysis or working paper prepared by the Governor’s office for the purpose of evaluating proposed legislation.” After reviewing your assertions and the submitted information, we agree that the Governor may withhold this information from public disclosure under section 552.106(b) of the Government Code.³

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body

¹Although you also raised section 552.101 of the Government Code, you did not explain how this exception applies to the information at issue. Thus, we are unable to consider the applicability of section 552.101. See Gov’t Code § 552.301(b); Open Records Decision No. 363 (1983). The Public Information Act places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974).

²We assume that the “representative samples” of records submitted to this office are truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

³Because we resolve your request under section 552.106(b), we need not address the applicability of the other exception you raised.


fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/seg

Ref.: ID# 152000

Enc.: Submitted documents

c: Mr. Lee A. Spangler
Assistant General Counsel
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(w/o enclosures)